

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

ESPERANZA GUERRERO,)	
)	
Plaintiff,)	
)	
v.)	1:13cv837(JCC/JFA)
)	
AMY T. WEEKS,)	
)	
Defendant.)	

M E M O R A N D U M O P I N I O N

This matter is before the Court on Plaintiff Esperanza Guerrero's ("Plaintiff" or "Guerrero") post-judgment motions. There are five pending motions in this case. [Dkts. 34, 39, 42, 44, 59.] For the reasons explained below, the Court will deny these motions.

I. Background

The facts underlying this case are fully set forth in the Court's Memorandum Opinion dated September 16, 2013, [Dkt. 15], familiarity with which is presumed. In brief, Plaintiff alleges that Defendant fabricated a truancy summons served on November 24, 2007. (Compl. ¶ 28.)

On September 16, 2013, the Court issued a Memorandum Opinion and Order dismissing with prejudice Plaintiff's Amended Complaint. [Dkts. 15-16.] On September 26, 2013, Plaintiff

filed a Motion to Recuse the Judge and Request for Reassignment. [Dkt. 17.] On October 1, 2013, Plaintiff filed her Motion to Review Order for Reconsideration. [Dkt. 19.] On October 11, 2013, Plaintiff filed a Notice of Appeal as to the Court's dismissal of her Amended Complaint with prejudice. [Dkt. 23.]

On November 5, 2013, the Court issued a Memorandum Opinion and Order denying Plaintiff's motion for recusal. [Dkts. 30-31.] On November 15, 2013, the Court issued a Memorandum Opinion and Order denying Plaintiff's Motion for Reconsideration. [Dkts. 48-49.] On November 14, 2013, Plaintiff filed her Motion to Admit Evidence and accompanying memorandum. [Dkts. 34-35.] On November 14, 2013, Plaintiff also filed her Motion for Leave to File Notice of Constitutional Question and accompanying memorandum, [Dkts. 39-40], her Motion for an Extension of Time, for Review of Reconsideration, [Dkt. 42], her second Motion for Leave to File Notice of Constitutional Question and accompanying memorandum, [Dkts. 44-45]. On November 21, 2013, Plaintiff filed her Motion to be Heard and accompanying memorandum. [Dkts. 59-60.]

Defendant filed her response to Plaintiff's Motions for Leave to File Notice of Constitutional Question on November 25, 2013. [Dkt. 65.] Defendant also filed her response to Plaintiff's Motion for a Hearing and Motion for Extension on November 25, 2013. [Dkt. 66.] On that date, Defendant also

filed a response to Plaintiff's Motion to Admit Evidence. [Dkt. 67.]

II. Analysis

As a general rule, "the filing of a timely and sufficient notice of appeal immediately transfers jurisdiction of all matters relating to the appeal from the district court to the court of appeals." *Grand Jury Proceedings Under Seal v. U.S.*, 947 F.2d 1188, 1190 (4th Cir. 1991). There is an exception for matters in aid of the appeal. *Id.* Plaintiff filed a notice of appeal on October 11, 2013. [Dkt. 23.] Following the Court's denial of Plaintiff's Rule 59(e) motion on November 15, 2013, [Dkts. 48-49], the Notice of Appeal became effective. See Fed. R. App. Pro. 4(a)(4)(B)(i).

The motions currently before the Court are as follows:

(1) Plaintiff's Motion to Admit Evidence, [Dkt. 34]; (2) Plaintiff's Motion for Leave to File Notice of Constitutional Question, [Dkt. 39]; (3) Motion for Extension of Time, for Review of Reconsideration, [Dkt. 42]; (4) Motion for Leave to File Notice of Constitutional Question, [Dkt. 44]; (5) Motion to be Heard, [Dkt. 59].

Plaintiff's motions are an improper attempt to relitigate claims that have already been dismissed. This case is now on appeal to the United States Court of Appeals for the Fourth Circuit; "there is nothing more for the undersigned to do

in the case." *Mathis v. Goldberg*, Civil Action No. DKC 12-1777, 2013 WL 4236401 at *1 (D. Md. Aug. 14, 2013). Further consideration of Plaintiff's arguments will not aid the appeal. Therefore, Plaintiff's motions are moot and "will be considered, if at all, in the event that the case should be remanded or the appellate court so directs." *Id.*

III. Conclusion

For the reasons explained above, this Court will deny Plaintiff's Motions.

An appropriate order will issue.

January 2, 2014
Alexandria, Virginia

/s/

James C. Cacheris
UNITED STATES DISTRICT COURT JUDGE